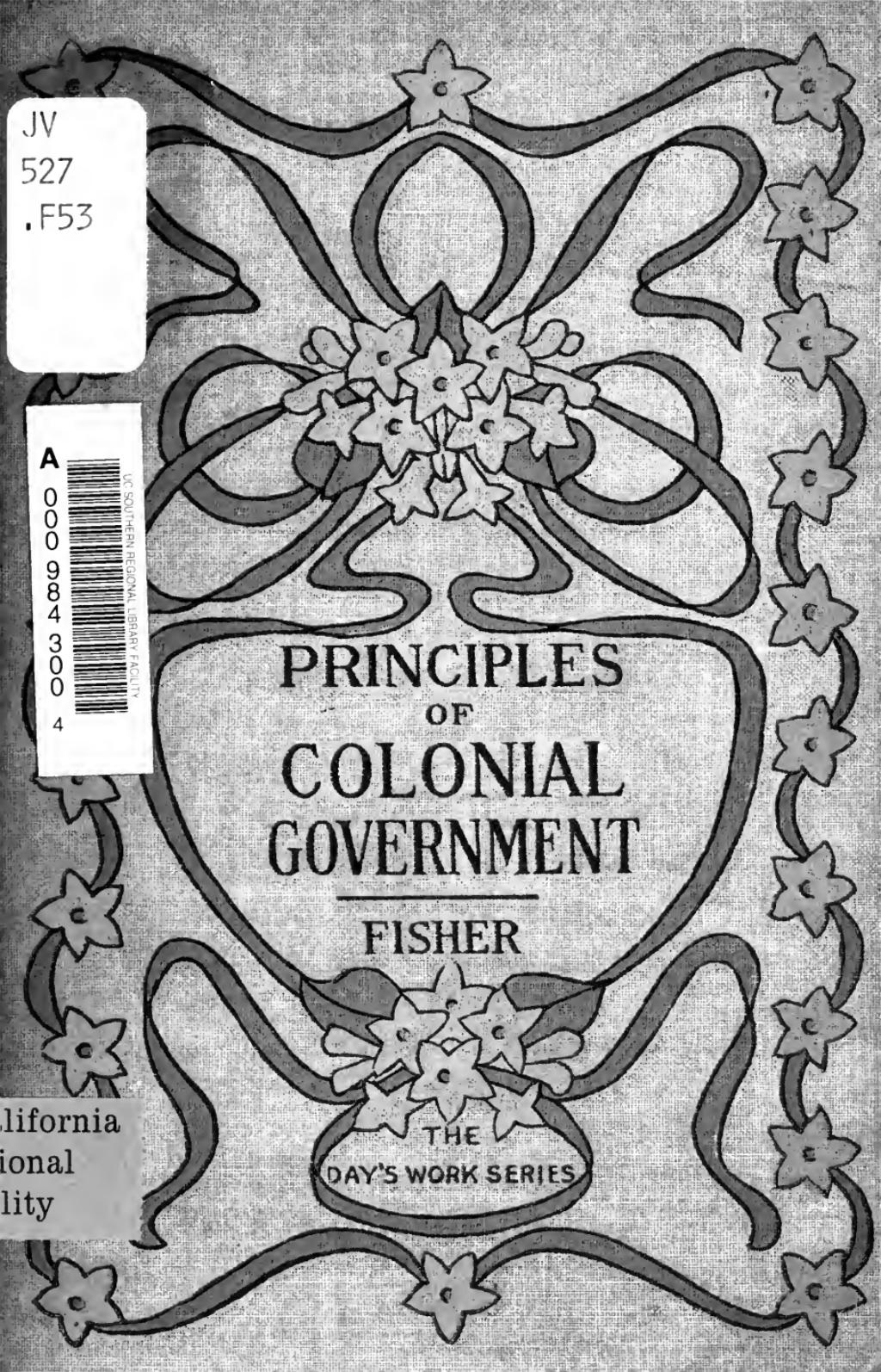


JV  
527  
.F53

A

000 984  
300  
4

UC SOUTHERN REGIONAL LIBRARY FACULTY



# PRINCIPLES OF COLONIAL GOVERNMENT

---

FISHER



THE  
DAY'S WORK SERIES

california  
ional  
lity

**LIBRARY**  
UNIVERSITY OF  
CALIFORNIA  
SAN DIEGO

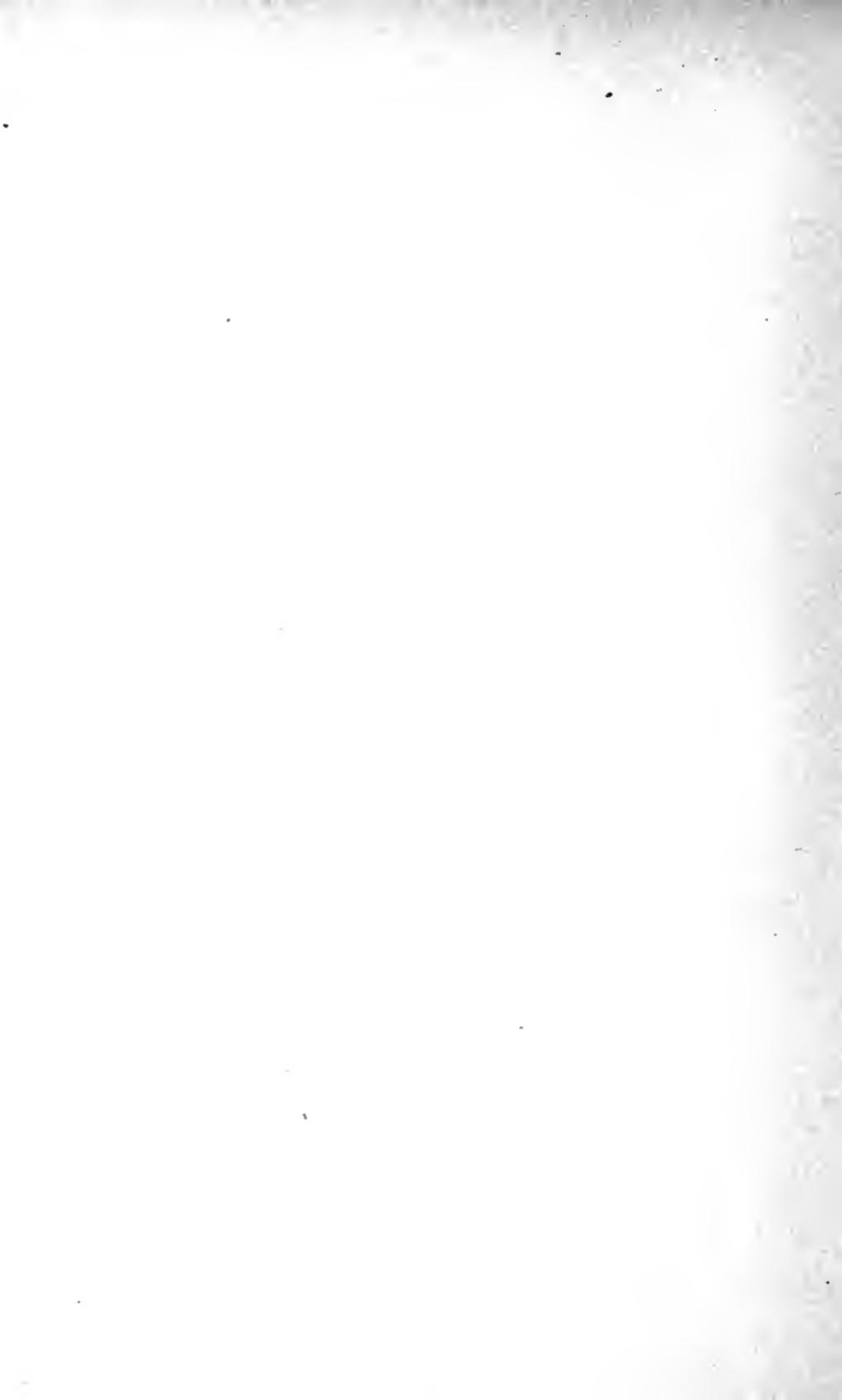
JV

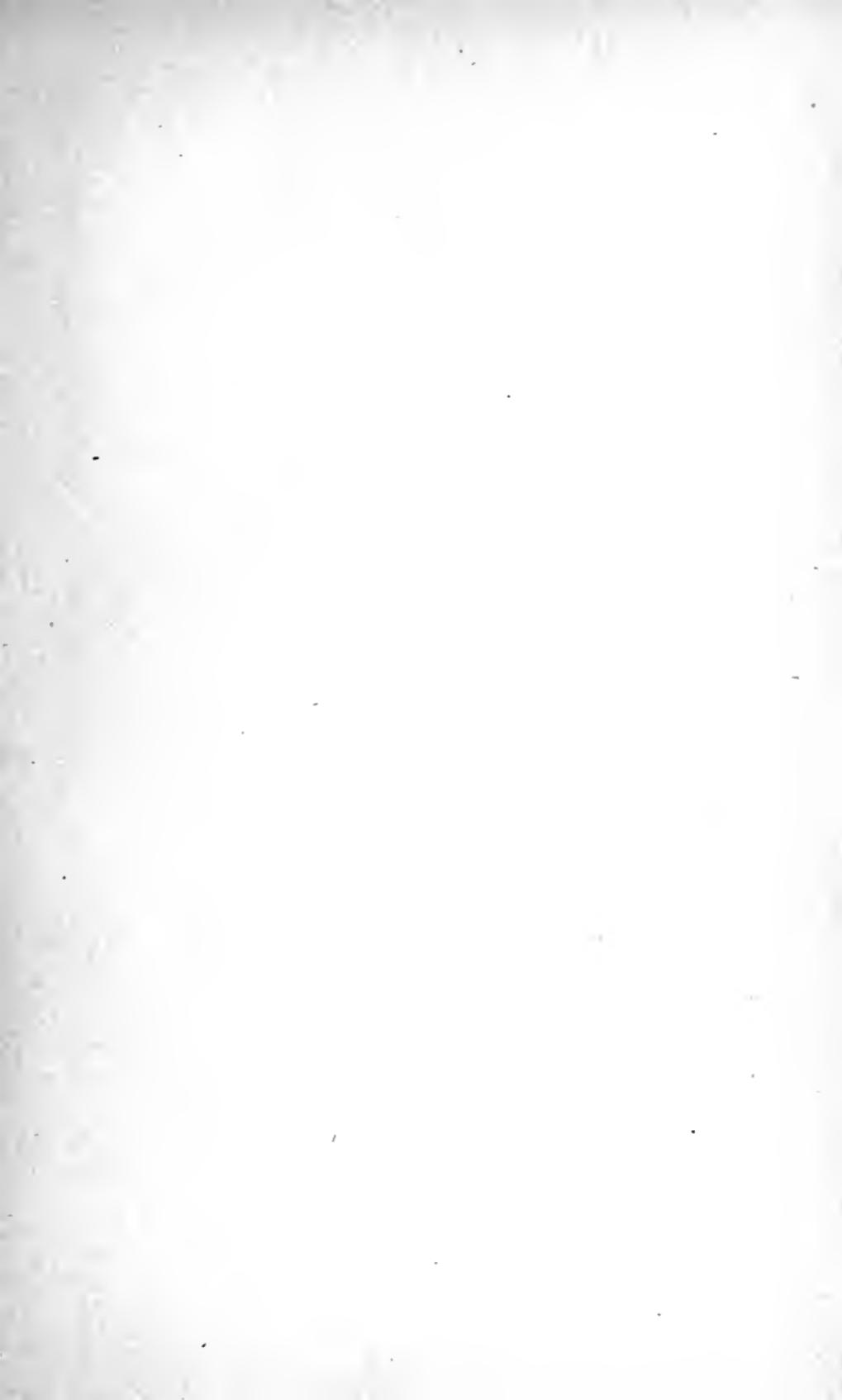
527

..F53



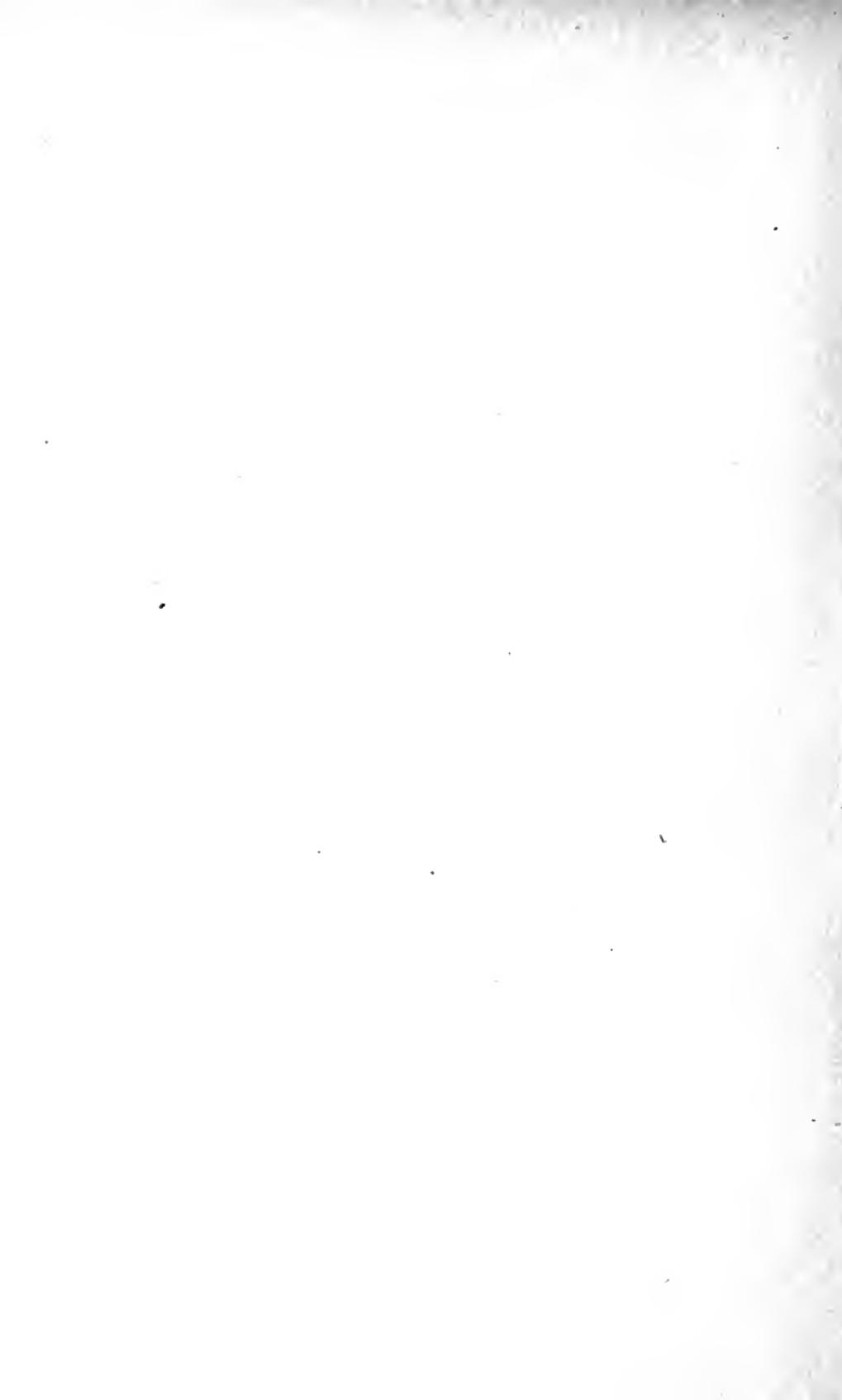






Digitized by the Internet Archive  
in 2007 with funding from  
Microsoft Corporation

# **PRINCIPLES OF COLONIAL GOVERNMENT**



94110

The Day's Work Series

PRINCIPLES  
OF  
COLONIAL  
GOVERNMENT

Adapted to the Present Needs of Cuba and  
Porto Rico, and of the Philippines

BY  
HORACE N. FISHER



BOSTON  
L. C. PAGE & COMPANY  
*MDCCCC*

*Copyright, 1899*  
BY L. C. PAGE AND COMPANY  
(INCORPORATED)  
*All rights reserved*

Colonial Press:  
Electrotyped and Printed by C. H. Simonds & Co.  
Boston, Mass., U. S. A.

## PREFACE.

Assuming that the object of Government is to assure to the governed the enjoyment of peace, order and justice, it is obvious that the principles and form of government must be adapted to the present needs and progressive civilization of the governed ; and that, consequently, the form of government best suited to accomplish these ends will depend upon the past experience, present condition and political capacity of the governed.

In this memorandum it is proposed to consider briefly the past experience and apparent political capacity of the people of Cuba and Porto Rico, and of the Philippine Archipelago, for whose peace and prosperity the United States is responsible.

It has been my good fortune, during two years of South American travel, to have visited all but two of the countries of South America and to have personally known, either in South America or in the United States, many of their leading statesmen, diplomats and historians, to whose courtesy I am indebted for information not easily obtainable ; while as consul in Boston, for over twenty years, of one

of these countries, and honorary member of several of their national societies, opportunity has been offered to keep in touch with Spanish-American questions and peoples, and to observe their capacity and tendencies.

HORACE N. FISHER.

*Boston, Nov. 25, 1899.*

## POINTS OF DISCUSSION.

---

### PART I.—CUBA AND PORTO RICO.

SECTION	PAGE
1. COMMON ORIGIN OF THE CASTILIAN "PUEBLO" OF SPANISH AMERICA AND THE NEW ENGLAND TOWN . . . . .	7
2. SPANISH AMERICA AN APPANAGE OF THE KINGDOM OF CASTILE . . . . .	10
3. DECADENCE OF SPAIN DATES FROM THE OVERTHROW OF THE CASTILIAN SYSTEM OF SELF-GOVERNMENT— IN BOTH SPAIN AND HER COLONIES . . . . .	11
4. THE "NATIONAL IDEA" AND THE "IMPERIAL IDEA" . . . . .	12
5. THE UNITED STATES, BY THE CONSTITUTION, IS IMPERIAL . . . . .	14
6. THE IMPERIAL POLICY OF GREAT BRITAIN IN HER COLONIES . . . . .	15
7. THE FATAL MISTAKE IN THE SPANISH-AMERICAN WAR OF INDEPENDENCE . . . . .	18
8. POLITICAL INCAPACITY OF CUBA AND SPANISH COLONIES IN GENERAL . . . . .	19
9. REVERSION TO THE "PUEBLO" SYSTEM AS THE STARTING-POINT IN REGENERATION . . . . .	21
10. THE TRUE POLICY FOR THE GOVERNMENT AND PROSPERITY OF COLONIES . . . . .	22
11. BASIS OF THE PRIMACY OF THE UNITED STATES IN AMERICA . . . . .	24
12. SLOW GROWTH OF THE "NATIONAL IDEA" IN THE UNITED STATES . . . . .	25
13. INCAPACITY OF THE ANTILLES FOR INDEPENDENT SELF-GOVERNMENT AT THIS TIME IS THEIR MISFORTUNE RATHER THAN THEIR FAULT . . . . .	26
14. ENCOURAGING FACTOR FOR THE REGENERATION OF CUBA AND PORTO RICO . . . . .	28

## PART II.—THE PHILIPPINES.

15. CONDITION OF THE PHILIPPINES STILL IMPERFECTLY KNOWN . . . . .	30
16. AN ELASTIC AND TENTATIVE TYPE OF GOVERNMENT RECOMMENDED . . . . .	32
17. THE GOVERNOR'S RESPONSIBILITY SHOULD BE UNDIVIDED AND STRICT . . . . .	32
18. TOLERATION, CIVIL AND RELIGIOUS, A CARDINAL PRINCIPLE . . . . .	33
19. THE "ASIATIC IDEAL," THE KEY TO PROBLEMS OF ASIATIC GOVERNMENT . . . . .	34
20. THE FILIPINOS LACK THE "INSTINCT OF COHESION" NECESSARY FOR THE RULE OF THE MAJORITY—THE BASIS OF SELF-GOVERNMENT . . . . .	37
21. "VILLAGE SOLIDARITY" THE BASIC PRINCIPLE OF GOVERNMENT IN ASIA . . . . .	38
22. THE JAPANESE "MURA" A FACTOR OF SELF-GOVERNMENT . . . . .	41
23. OBEDIENCE TO THE WILL OF THE MAJORITY ALONE CAN MAKE THE MINORITY ORDERLY AND SAFE; WITHOUT IT SELF-GOVERNMENT IMPOSSIBLE . . . . .	45
24. A NEW LEGAL STATUS, "COLONIAL DEPENDENCIES," SHOULD BE CREATED . . . . .	46
25. TENDENCY OF THE AGE TO NATIONAL CONSOLIDATION AND IMPERIAL EXPANSION, AND TO INTERNATIONAL COMBINATION . . . . .	48
26. TOLERATION—THE RECOGNITION THAT THE RACE-INSTINCTS OF THE NATIVES, AS EVINCED BY LAWS AND RELIGIOUS SYSTEMS, CANNOT BE CHANGED BY LEGISLATION ANY MORE THAN THE COLOR OF THEIR SKIN—NECESSARY IN GOVERNING RACES DIFFERENT FROM OUR OWN . . . . .	50

# PRINCIPLES OF COLONIAL GOVERNMENT ADAPTED TO THE PRESENT NEEDS OF CUBA AND PORTO RICO, AND OF THE PHILIPPINES.

---

## PART I.

### CUBA AND PORTO RICO.

#### §1. Common Origin of the Castilian Pueblo of Spanish America and the New England Town.

Investigations of Spain's Colonial System in America, begun more than twenty-five years ago in connection with a study of Spanish-American questions, led me back to the original Town System there established, which was that of the Gothic Kingdom of Castile, which in turn was identical with the old Anglo-Saxon Town System brought to New England and here developed.

Our Anglo-Saxon forefathers were originally the kinsmen and neighbors of the great West Gothic branch of the Teutonic race; they founded the Anglo-Saxon Kingdoms in England at the same time the

West Gothic Kingdom of Castile was founded,—in the middle of the fifth century; and it was but natural that there should be a close resemblance between the Castilian and the Anglo-Saxon systems of local government in their new homes, whether in Europe or the New World.

Indeed, our early New England Town and the Castilian “Pueblo” (town) in Spanish America were formed on precisely the same lines: they were each pure democracies, with annual town meetings, where the townsmen elected town officers with similar functions, and managed their town affairs on similar communistic principles. In both cases, the Town and the “Pueblo” was a territorial township with defined boundaries, divided into “commons” of pasture, of meadow, and of woodland, in charge of field-drivers, haywards, and woodreeves; there were also the “Common Planting-field” and the Town Granary; the townsmen were admitted to the “Freedom of the Town” by vote of the Town Meeting, and were assigned “houselots” for their private use; the area granted for a houselot is conclusive evidence of the common origin of the “Town” and the “Pueblo,” to wit,—twelve acres to married and eight acres to unmarried men in our New England Towns (*e.g.* Dedham, 1637), and in the Pueblos of Spanish America three cuadras (= twelve acres) and two cuadras respectively. The Alcalde and Regidores of the Pueblo had the powers of our Selectmen; in

both, the Town Clerk was registrar of all land conveyances, as well as of the orders of the Town Officers and of the Town Meeting; the Town Constable collected the taxes apportioned to each inhabitant. Every town had its training field and annual muster, and every townsman was held to military service, and to have his arms in readiness.<sup>1</sup> The very name "By-laws," given to distinguish Town regulations from State legislation, carries us back fifteen centuries to the Baltic homes of the Anglo-Saxon and Goth, where the village settlement was called "By" and its laws "By-lage."

In a word, the original town governments of Spanish America and of New England were derived from a common source, were practically the same, and were peculiar to a race famous for its virile energy and individual initiative, which have made both its branches successful colonizers.

If we turn to history, we shall see how this Gothic

<sup>1</sup>The first Town Meeting on the mainland of America was that which Cortez called on landing in Mexico. It established the Pueblo of Vera Cruz, with a full list of town-officers, elected by popular vote; it elected Cortez as Captain General and, as Captain General of the Pueblo of Vera Cruz, he conquered the Empire of the Montezumas. The Gothic blood, the blue eyes and light hair of the Castilian Conquerors of Mexico caused the Mexicans to believe that they were the "Children of the Sun," whose coming had been foretold; Alvarado was called by them the "Sun God" because of his flowing flaxen beard and fiery blue eyes. Queen Isabella was a blonde, and to this day the Castilian is as noted for his fair complexion as the Andalusian for his olive complexion.

system of Town Government happened to be established in Spanish America, and how it was buried, first in Spain and later in Spanish America, beneath the centralized bureaucratic despotism of Philip II., which proved so fatal to Spain. Prescott (in his *Philip II.*, Vol. i., p. 3) thus describes the consequences of the overthrow of Castilian self-government in the War of the “Comunidades” :

“ From that fatal hour an unbroken tranquillity reigned throughout the country,—such a tranquillity as naturally flows, not from a free, well-conducted government, but from a despotism.”

## § 2. Spanish America an Appanage of the Kingdom of Castile.

It should be remembered that Columbus made his famous voyage as Admiral of Castile and at the expense of the Treasury of Castile ; that, consequently, Spanish America became an appanage of Isabella’s Kingdom of Castile,—not of Spain. In the cathedral at Seville one can still read King Ferdinand’s inscription on the monument there raised to Columbus :

“ To Castile and Leon Colon gave a New World.”

It was for this reason that Queen Isabella caused the Laws and Privileges of Castile to be codified, for the use of *her* subjects in Spanish America, under the name of “Laws of the Indies.”

Thus it was that the Laws and Rights of Self-

government of Gothic Castile became the original constituted Government of Spanish America,—under which were developed the marvellous virility and individual initiative of Spanish Explorers and Conquerors in the New World. In both Spain and Spanish America this period was the most magnificent in Spain's history. So long as this life-giving system of local government prevailed, Spain was the foremost power of Christendom, and enjoyed a prosperity at home and a respect abroad far beyond any other nation of that period.

### § 3. The Decadence of Spain Dates from the Overthrow of Castilian System of Self-government — in both Spain and Her Colonies.

The decadence of Spain dates from the overthrow of this democratic system of local self-government, and the substitution of a centralized bureaucratic system of government consummated by Philip II., of whom it was said, "The king's hand is in every man's mouth."

The paralyzing effect of this momentous change was nowhere more marked than in Spain's American possessions, where all governmental positions were filled by "Peninsulares," sent out from Spain to farm (*i.e.* "exploiter" — to make the most out of) the colonies.

The tendency of such a proconsular system has always been not only to official corruption and oppres-

## 12 PRINCIPLES OF COLONIAL GOVERNMENT

sion (as in Sicily under Verres), but to disqualify the colonies for self-government; and throughout Spanish America it ultimately reduced the colonies to a state of civil and religious pupilage under Civil overlords ("Audiencias") and Religious over-lords (Inquisitors and Monastic Brotherhoods), sent out from Spain in relays.

The curse of the Latin mind intensified this evil tendency, namely : the mania for "Uniformity,"—a uniformity of Law as well as of Religion, irrespective of climate, race and condition of life in the several colonies. It is obvious that Uniformity must depend, for its successful application, upon the close similarity of the peoples, and their various conditions, within its jurisdiction. In Spanish America the extreme diversity of race and conditions, compared with Spain and even in her adjacent colonies, made this attempted Unification (which seems inherent to Centralization) peculiarly disastrous to the political and material and intellectual development of the Spanish colonies.<sup>1</sup>

### § 4. The "National Idea" and the "Imperial Idea."

While the "National Idea" involves the subordination of the individual will and of local interests to the

<sup>1</sup>At the time of the Spanish-American Revolution (1810) there was only one printing-press in the Spanish Colonies of all South America. Everything there printed (*i.e.* at Lima) was supervised by the Inquisitors, and all foreign books imported were submitted to their censorship.

Will of the Majority and to the general interests of the Nation, it should be also recognized that — whenever the nation has an unavoidable diversity of interests, based upon great difference of race, religion and stage of civilization — diversity of jurisprudence and of form of government becomes a logical necessity.

Thus the “Imperial Idea,” involving diversity of jurisprudence and form of government, is one of the necessary consequences of colonial expansion. Hence, “Imperialism” is an incident of every national development, which includes colonial possessions with diversity of conditions of life.

For this reason, the numerous colonies and possessions of Great Britain imposed upon her an Imperial System of Government long before the Queen became Empress of India. The diversity of form of government in the various British colonies — from the primitive “Crown Colony” to the “Responsible-Government Colony” — was a practical recognition of the Imperial character of the British Government. Upon that recognition and its steady observance depend the prosperity and progress, the liberty and political capacity, of the people of the colonies.

The failure of the Spanish monarchs to recognize the necessary and radical difference between the National and the Imperial systems of government, especially in colonial management, caused the Spanish colonies to lose their capacity for self-government and ultimately lost them to Spain.

It behooves us, then, as the successors of Spain in the West Indies and the Philippines, to recognize that we have entered upon the Imperial stage of National Development, and that we must arrange forms of government for our new possessions practically suited to their present capacity and needs; that diversity of laws and of form of government, according to the needs of each colony, is and must be the cardinal principle upon which our success in colonial government must inevitably depend.

#### § 5. *The United States, by the Constitution, is Imperial.*

Our own government was made Imperial by the Constitution; we live under a Supreme National Government, which carefully preserves the sovereign autonomy of the States in matters not necessarily granted to the National Government. The great principles of our civil and religious liberty remain unchanged as our ideals of government: and in adapting them to the condition of the country, as it has developed during the century now closing, we have practically approached nearer and nearer to our ideal standards.

Though our population has increased fifteen-fold and our area five-fold during this century, the vigor of both State and National governments and our prosperity and civilization have advanced immeasur-

ably faster;<sup>1</sup> while our capacity for government has steadily increased with each successive stage of National development, until to govern has become an instinct, and to be self-governed a habit.

It seems beyond dispute that the true cause of this wonderful record is our constitutional combination of State Autonomy with National Sovereignty,—the very essence of the “Imperial Idea.”

#### § 6. The Imperial Policy of Great Britain in Her Colonies.

Though rival nations predicted the decline of Great Britain on the loss of her American colonies, that loss changed the British Colonial Policy. Instead of stupidly adhering to the narrow policy of treating colonies as established for the exclusive benefit of the mother country, as a source of taxable revenue and a commercial monopoly, it was recognized that they should be treated as great trusts to be administered for their political and material advancement, as the

<sup>1</sup> Mulhall's estimate of the wealth of nations for 1898 is as follows :

United States	\$81,750,000,000	Anglo-Saxon Countries,
Great Britain	59,030,000,000	\$140,780,000,000
France	\$47,950,000,000	Latin Countries,
Italy	15,800,000,000	\$75,050,000,000
Spain	11,300,000,000	
Germany	\$40,260,000,000	Continental Military
Russia	32,125,000,000	Empires,
Austro - Hungary	22,560,000,000	\$94,945,000,000

surest means to make them self-governing, self-supporting and prosperous, and to thereby increase their purchasing power and make them better markets for British Commerce.

Thus, by successive stages of political development, those colonies have advanced, or are advancing, from "Crown Colonies" (where all Executive and Legislative power is confined to officials appointed by the Crown) to "Responsible-Government" Colonies (where the only Crown officer is the Governor-General, vested with the "Moderator Power" of the Queen). In this way Diversity of Jurisprudence and Diversity of Civil Government, each adapted to the condition of each colony, have combined to make the British Empire stronger to-day than ever before.

No man can seriously study the regeneration of India since the British Government took control after the Sepoy Mutiny of 1857, or the regeneration of Egypt now in progress under British control, without recognizing how important a factor of prosperity and happiness is proving this wise policy of adapting systems of government and laws to the condition of alien races aggregating hundreds of millions of mankind.

This is Imperialism in its beneficence, the kind of Imperialism which the United States should exercise in its dependencies beyond the seas.

The German Empire of to-day is a similar combination of State and Imperial Governments, like our Union. Since its establishment in 1871, Germany's

progress in industrial and commercial condition has been marvellous.

Austria's defeat at Sadowa has proved her regeneration under the statesmanlike genius of Von Beust, who adopted the policy of State Autonomy under Imperial control.

Italy, on the contrary, has adhered to the Latin fetish of Unity of Jurisprudence and National Solidarity: her internal condition is the reverse of satisfactory, not encouraging in its tendency.

But Spain, verifying the traditional incapacity of her Bourbon monarchs to profit by experience, which seems to have infected the nation, has clung to the old mediæval policy of treating her colonies as sources of revenue and commercial monopoly and a field of Government patronage. If she, on the loss of her American colonies eighty years ago, had changed her colonial policy as Great Britain did on a similar loss, Spain would probably have been spared her recent humiliation.

Thus we have for our guidance, at this new development of our national life, the experience of other nations who have learned to their sorrow the tremendous mistake of attempting to apply a uniform system of government and laws to dependencies, where the conditions of life and present political capacity radically differ from those of the nation at home, and also vary in the different colonies.

Great Britain wisely and nobly took this lesson to

heart; but Spain refused to profit by her experience, and hence is seen the fatal effect of ignoring this necessary natural diversity, in the stagnation of political life in her colonies and their lack of capacity to govern themselves.

#### § 7. Fatal Mistake in the Spanish-American War of Independence.

In the Spanish-American War of Independence (1810–20) Spain lost all of her American Colonies except Cuba and Porto Rico. It was but natural that the revolutionary colonies should demand every right which had heretofore been denied them. Hence the terrible mistake — now confessed by Spanish-American historians and statesmen<sup>1</sup> — of adopting, in their new governments, the radical *doctrines* of the French Revolution instead of the conservative *principles* of the American Revolution. The result was the immediate enfranchisement of all races and conditions of men on the doctrine of Liberty, Equality and Fraternity, irrespective of their past experience and political capacity; they were able to destroy, but lacked the power to build up governments.

<sup>1</sup> Don Miguel Luis Amanategui, a distinguished statesman and historian of Chile, in his notable history, "Los Precursores de la Independencia de Chile," specifically states that the fatal mistake of Spanish America, in forming new governments, was to follow the French instead of the American principles above stated. He cites various authorities of recognized weight to support this opinion.

This investiture of an ignorant heterogeneous population with full powers of self-government—for which neither they nor their forefathers, for several generations at least, had had any practical experience,—was followed by a succession of revolutions and dictatorships which kept Spanish America in turmoil for a long period under self-called republican governments, except where an intelligent conservative oligarchy as in Chile, or a masterful president like Diaz in Mexico, enforced peace and orderly government.

In no part of the world has the doctrine of Universal Suffrage, as an inalienable natural right instead of a privilege based on political capacity, proved more disastrous to the welfare of the country than in the tropical States and islands of Spanish America under republican governments, where the Caucasian (white) race varies from ten per cent. to twenty-five per cent., and is utterly outnumbered by mixed races of doubtful capacity, and by aboriginal races, including negroes, of even less capacity for self-government. In Cuba and Porto Rico, only, does the Caucasian race exceed fifty per cent. of the population.

#### **§ 8. Political Incapacity of Cuba and Spanish Colonies in General.**

General Ludlow, for the past year military governor of Havana, recently expressed his conclusions in regard to the capacity of the Cubans for full self-government. His diagnosis of the case, in his address

before the New York Chamber of Commerce, cannot but accord with the opinion of those who have carefully studied the history and political condition of the other Spanish-American Colonies at the time of their emancipation.

[Extract from General Ludlow's Address, as published.]

"The Cuban character, in the best representatives of the people, is full of urbanity, refinement and intelligence,—especially acuteness and subtlety; but it is devoid of executive and practical power, and particularly of that Instinct of Cohesion which is essential to the Formation of Majorities, and of that Respect for the Majority which can alone render a Minority orderly and safe. Thus they lack the prime elements of effective national action."

If this be a correct view of the actual condition of Cuba and Porto Rico, it is largely due to the causes already discussed, which have reduced the virile and self-governing Spaniard of the sixteenth century to a condition of incapacity for self-government. Indeed, it has been truly said :

[Extract from John Foreman's paper on the Philippines in National Review, London, November, 1898.]

"Among the many liberated States, once Spanish Colonies, there is no instance on record of any one of them having emancipated itself, within the first generation of freedom, from the evil influence of vice, lethargy and misrule. No thinking man would wish to see a change of masters without a change of governmental system, either in the Philippines or the West India Islands."

In a word, a different system of government must be devised to correct the evils of a system which has reduced the original self-governing and energetic Spaniard to such a condition of political incapacity as that described above. Such new system should restore the lost capacity; and its merit can be measured by the degree of self-governing power, which it may develop.

#### § 9. Reversion to the “Pueblo System,” as the Starting-point in Regeneration.

Having already discussed the apparent cause of this loss of political capacity in Spain’s American Colonies, it would seem to be the most natural remedy to revert to the original race-system as the foundation upon which to build up the new system and thence to follow the lines upon which our own system of local government has been developed from a basis substantially identical with it, having due regard to the special conditions of each case. The object in view is to develop their capacity for self-government and for individual initiative, and thus fit them for governing themselves in national as well as local government, by progressive stages.

Therefore it is suggested that we treat the whole superimposed system of centralized Spanish misrule (moving no faster, however, than the natives can comprehend and act wisely in this governmental reform) as an accumulation of political lava and ashes, which

must be removed down to the bed-rock of their original Pueblo System of Castile ; and from that, as the Starting-point, reconstruct political life and self-government in accordance with the gradual development of political life and capacity in our own experience.

If we frankly explain this policy to the people of the Antilles,—that we seek their political regeneration by reverting to their own original system which made their early history so glorious,—we need not fear any failure of their earnest coöperation in the great work of constructive statesmanship, for which our government has become responsible ; for the peculiar characteristic of the Spanish American is that, though it is difficult to win his full confidence, it becomes instinctive and unfaltering when once it is won.

#### § 10. *The True Policy for the Government and Prosperity of Colonies.*

We do not seek colonies or far-away dependencies as a source of supply for our National Treasury, or as a Commercial Monopoly, or as a new field for Government patronage. That idea was long ago recognized as bad policy. In this sense we justly abhor vassal states and subject races.

The true policy has been found to be to help the colony or dependency by protecting it from foreign encroachment and internal misrule during its apprenticeship in the art of self-government, and to give

every reasonable assistance to make it self-supporting and self-governing, and to attain the utmost practical measure of modern civilization and development.

Our reward will not be immediate; though the colony will not be a "Commercial Preserve," it will become more and more valuable as a profitable field for the investment of our capital, and as a purchaser of our surplus manufactured and agricultural products.

Thus—not for our own mere fiscal advantage, but for the mutual advantage of our country and its dependency by securing for it the utmost possible prosperity, based upon its enjoyment of peace, justice and progressive self-government—are we entering upon an advanced stage of national development, the results whereof bid fair to prove beneficial not only to ourselves and our dependencies, but to the world's peace and its civilized progress.

If our success in self-government is—as it is claimed by us and confessed by the ablest foreign publicists—largely due to the political education of our Town Meeting System and its concomitant, the Public School, we should bend our energies to the development of a Town System on the lines above set forth, as *their* school in the art of self-government, supplementing it with a practical system of public schools adapted to their intelligent comprehension. The questions of full general government under native control must naturally depend, for final solu-

tion, on the solidity of the local governments which we are seeking to establish as the basis of colonial government.

### § 11. Basis of the Primacy of the United States in America.

If our efforts to regenerate Cuba and Porto Rico by this natural simple method are found to be fairly successful, this method and its results will become an object lesson to other Spanish-American countries, likely to be adopted by them according to their ability; so that, in due course, we may anticipate a gradual assimilation of their methods and capacity for self-government to our own. And thus it will come to pass that their prosperity will become more and more closely identified with ours, and our "Sphere of Influence" become more potent in Spanish America, by mutual confidence and good correspondence, than the "Spheres of Influence" established by Europeans for the partition of Africa or of China.

Such a Primacy of the United States in America,<sup>1</sup>

<sup>1</sup> Prof. T. J. Lawrence, in his work on International Law (1898), says in §136: "The position of the United States on the American Continent is in some respects like, and in others exceedingly unlike, that which is accorded in Europe to the Six Great Powers. . . . If it be true that there is a Primacy in America, comparable in any way with that which exists in Europe, it must be wielded by her, and by her alone." . . . Secretary Fish, in his report to President Grant in July, 1870, defines our position as follows: "The United States . . . occupy of necessity a prominent position on

as the chosen leader of a Commonwealth of American Nations, might well be accounted our greatest glory.

#### § 12. The Slow Growth of the “National Idea” in the United States.

Let us not forget that the “National Idea” is of comparatively modern growth; that the subordination of local interests to national interests — “that instinct of cohesion which is essential to the formation of Majorities, and of respect for the Majority which alone can render a minority orderly and safe, the prime elements of national action” — was not fully developed in this country at the time of our Revolution.

Our Continental Congress, at first conspicuous for the high character and broad statesmanship of its members, gradually degenerated into a mere “Rump Congress;” because its ablest members, except the four or five in Europe as Commissioners or Ministers, were engaged in forming State Governments in their own States. The idea of State Rights permeated that crisis of our history: it took five years of War — until 1781 — to perfect our “Articles of Confederation,” because of the jealousies and rivalries of the several States; and, when peace came, those jealousies

this continent . . . which entitles them to a leading voice and which imposes on them duties of right and honor regarding American questions, whether they affect emancipated colonies, or colonies still subject to European dominion.”

and rivalries threatened to nullify the results gained by our War of Independence.

Hamilton declared the general opinion of the country when he wrote these words, soon after the Constitutional Convention adjourned and while it was uncertain whether the States would adopt the Constitution agreed to by it :

“A nation without a national government is an awful spectacle.”<sup>1</sup>

In a memorandum prepared by him about this time, he said :

“A Reunion with Great Britain, from universal disgust at a state of commotion, is not impossible. . . . The most plausible shape of such a business would be the establishment of a son of the present monarch in the supreme government of this country, with a family compact.”<sup>2</sup>

Thus we have proofs of the weakness of the “National Idea” even in our own country but little over a century ago. It was not until the Civil War (1861–65) completed the subordination of state Sovereignty to National Supremacy that we really became a Nation.

### § 13. *The Incapacity of the Antilles for Independent Self-government at Present is their Misfortune, Rather than their Fault.*

In view of our own experience,— and the development of national supremacy in European countries

<sup>1</sup> Curtis’s History of United States Constitution, I., 419.

<sup>2</sup> Hamilton’s Works, II., 419.

(France, Germany, Holland, and Italy) was also slow,—it can hardly be expected that the “National Idea” will be found in either the Antilles or the Philippines, for a considerable period, of a degree of fixity sufficient to warrant a belief in their capacity for full self-government. Hence the conclusion that, until they develop “that instinct of cohesion which is essential for the Formation of Majorities, and of that Respect for the Majority which alone can render a Minority orderly and safe,” these dependencies will lack this prime element of effective national action,—that is, of Independent Self-government.

This conclusion, however unavoidable, ought not to be considered as a reflection upon the people of those islands. Their lack of this vitalizing element of self-government is their misfortune, rather than their own fault; nor can it be reasonably expected of them, or of any other people, to reach at a single step our instinctive obedience to the Rule of the Majority,—the condition precedent of orderly republican government,—which is the result, in our case, of centuries of experience after many failures and set-backs caused by following delusive theories in the art of governing.

If we start them right, they may be saved many useless steps and many hazardous wanderings; and we can then honestly say, as Daniel Webster said in 1826, “Thank God! They are at school.”

That school—the primary school of self-government—is the Town Meeting, where all the towns-

men meet, choose their town officers, discuss and decide the prudential affairs of the community in a peaceable and orderly manner. For this purpose we have only to revert to their old Castilian Pueblo System, traces of which still survive, as an excellent starting-point.

#### § 14. Encouraging Factor for the Regeneration of Cuba and Porto Rico.

There is a very favorable factor, in the case of both Cuba and Porto Rico, which should be duly appreciated, namely:—the preponderance of the White population over the combined mixed and colored races. In no other country of tropical Spanish America does the White population reach twenty-five per cent.; but in Cuba (1890) it was sixty-five per cent., and in Porto Rico fifty-seven per cent., as against sixty-two per cent. in North Carolina and fifty-eight per cent. in Virginia.

It is upon this Native White Population that we must mainly depend in establishing orderly government. To this end we should protect, encourage and help them to set up their little town governments. They are largely of the same Spanish race, which once showed a capacity for self-government and individual initiative equal to our own; the germ of which is still in them, though dormant. The peculiar characteristic of the Spanish American, in spite of his

urbanity, is the difficulty of winning his confidence; but, once won, it is instinctive and complete.

Porto Rico, as the healthiest of the West India islands and without race conflict and jealousy, seems to have a decided advantage over Cuba for the introduction of local governments of the kind suggested; it is, moreover, exempt from the spirit of lawlessness which has become chronic in Cuba during successive revolutions and been fostered by the extent of unexplored mountain fastnesses which offer an asylum to bandits and outlaws.

In such a work of constructive statesmanship it behooves us to move cautiously, tentatively adapting the system to the actual capacity and comprehension of the people, in order to assure their confidence and zealous coöperation.

With patience, tact and a plastic adaptation of means to ends, it seems possible to re-create intelligent self-government within a few years in Porto Rico, and perhaps also in Cuba. At first it will require an iron hand in a velvet glove to hold them to their work.

## PART II.

### THE PHILIPPINES.

#### §15. Condition of the Philippines Still Imperfectly Known.

Our knowledge of the Philippines is perhaps too limited, in spite of the valuable information already collected by our Commissioners and others in an official capacity and by travellers and alien-residents, to enable us to fully comprehend the needs and capacity of that heterogeneous population.

We know, in a general way, that the mass of the population belongs to the Malay branch of the Asiatic race; that there is also considerable Chinese and Spanish blood by intermarriage; that the Tagal and Visaya sections of the Malay population have not heretofore agreed with each other; that there is almost as great difference of religion as of race, and even greater difference in stage of civilization, among the Philippine tribes.

It would, therefore, seem ill-advised at this time to act definitely upon the details of the government to be established in the Philippines, and especially unwise to attempt to frame a uniform system of

government and laws for the whole archipelago ; and much less wise to establish a single native government over the whole population.

The concurrent testimony of our Commission, of our army and navy officers, and of reliable writers who have long lived there, seems to be that the Filipinos are not at this time capable of full self-government, and of maintaining peace, order and justice,— for which we are solely responsible.

If this be so, we cannot shift our responsibility until we have made them capable of self-government ; meanwhile we must continue to provide for them an effective government ; and, to this end, assist them to take a constantly increasing share in the government, as their capacity therefor is developed. It would, indeed, be a cruel blunder to entrust them with powers of government beyond their capacity to exercise wisely ; for it would cause confusion, perhaps anarchy.

As already stated, we do not seek colonies as "Commercial Preserves," or for their contributions to our national treasury, or as a new field of Government patronage. For this reason we abhor colonies, if they are to remain *permanently* vassal states and subject races.

Now that we find ourselves, by the course of events, in possession of and responsible for these distant islands and their millions of people, differing from us in race, religion, civilization and political

capacity, it becomes our imperative duty to provide for them the form of government best suited to their present needs,— and, moreover, best calculated to render them self-supporting and ultimately self-governing, as well as more intelligent, prosperous and civilized.

#### **§ 16. An Elastic and Tentative Type of Government Recommended.**

While it may not be wise to frame a rigid form of government at this time for the Philippines, it is obvious that the time is close at hand to establish a Civil Government in the place of our Military Government,— a Government of Laws, rather than of Men ; and, because of our imperfect knowledge of their condition and capacity, which vary immensely according to race and location, that system should be “elastic,” so as to provide for its tentative application according to the discretion of the United States Governor resident, acting as the President’s executive officer.

#### **§ 17. The Governor’s Responsibility should be Undivided and Strict.**

Let it not be inferred from the “Elastic and Tentative” type of government suggested, that the United States Governor would be vested with despotic powers. On the contrary, the vastness of his responsibility would tend to make him conscientiously

conservative in the performance of his delicate trust. To maintain his strict responsibility to the President and Congress, that responsibility should not be distributed between the Governor and a responsible Council.

Our own experience has placed an undivided executive responsibility upon the President, whose constitutional advisers are not responsible ministers, but Secretaries over whom the President has complete control; a similar indivisible personal responsibility of our Colonial Governor would avoid the divided and therefore intangible responsibility of the Spanish Colonial "Audiencias," under whose administration despotism and corruption reigned rampant.

#### § 18. **Toleration, Civil and Religious, should be a Cardinal Principle.**

With this general principle of Personal Responsibility as our polar star to direct the responsible representative of our government in the colony, we should combine another principle for the adaptation of the government to the condition of the governed. That principle is conservative rather than radical, and yet progressive. It may be described as "Toleration," which recognizes the existing laws, customs, and religions of the natives as the results of their experience and race-instincts, and therefore not to be hastily set aside; on the contrary, to be reckoned as conducive to public order during the transition

period. Hence we should seek to regenerate by toleration and the development of a progressive civilization, according to the past experience and race-instincts of the natives.

In a word, their racial type of government, as far as practicable, should guide us in forming their regenerated government; *their race-instincts*, rather than our own, should be our point of departure.

#### §19. The “Asiatic Ideal,” the Key to Problems of Asiatic Government.

Let us, then, realize that we are dealing with Asiatic ideals and experience, and seek to comprehend the fundamental principles of the Asiatic mind, in regard to government.

We read of Asiatic conquests, sweeping like tidal waves across Asia from the dawn of history. But, if we read between the lines, we shall (I think) recognize that such wars were purely dynastic; that they lack the character of national wars; that they involve merely a change of rulers and are therefore determined by a single great victory.

The reason is that the mass of the people take but little interest in the central government and limit their ambitions to the narrow horizon of their village life. The gulf between the Supreme Monarch and the plain man of the people is too vast for the personal interest of the former, or the personal loyalty

of the other, to cross ; hence the Asiatic cares little who wears the crown, and the monarch cares as little for his individual subjects.

Thus the Village Community becomes to the Asiatic — as to all peoples in a primitive stage of civilization — the only sphere of political life and ambition. This primitive community is governed by customs and traditions of unknown antiquity, which have the force of laws ; its traditions embody its political and moral lore ; its rivalries and jealousies with near-by villages take the place of the national rivalries and jealousies of more advanced countries. Though the horizon of their political life is narrow, it is the reverse of stagnation ; it contains the germ of a higher political capacity, which may be developed into national life.

This Asiatic ideal — the Village Community as the centre of the universe — runs throughout Asia and may be considered as the key for the solution of the problems of Asiatic government.

Sir Henry Maine, in his famous Lectures at Oxford on the “Village Communities of India,” most truthfully said :

“The discovery and recognition of the existence of the Village Communities of India has ranked among the greatest achievements of the Anglo-Indian Government.”

It was the recognition of these Communities and their careful development, after the British Govern-

ment undertook the government of India in 1858, which has so largely contributed to the peace and progressive capacity of India for self-government during the past forty years.

The regeneration of Egypt, under the administrative genius of Lord Cromer, has been carried out on this principle, and is justly considered a marvellous work of constructive statesmanship.

The States of the Malay peninsula have entered upon an era of prosperity and peace, unknown to their previous history, since the establishment of a British protectorate based on this principle.

Japan, in her newly acquired colony of Formosa, has wisely followed out this British policy, and, in five years, has made good progress in establishing peace and orderly government in an island "of lofty and inaccessible mountains, inhabited by two or three millions of the most dangerous type of Chinamen,—a variety of mixed breeds, in which the Papuan Negro, the Mongolian, and the Malay predominated,—and a multitude of lawless and untamed savages of the most desperate nature."

From what we know of the Philippine population, they are vastly superior in every respect to the people of Formosa, as thus described by Mr. Stafford Ransome in his recent (1899) work on "Japan in Transition." (Chapter 14.)

§ 20. The Filipinos Lack the Instinct of Cohesion, Necessary for the Rule of the Majority—the Basis of Self-government.

The correctness of this fundamental principle of government for Asiatic peoples is sustained by Mr. John Foreman, whose valuable paper on the Philippines was published in the *Contemporary Review* (Lond.) for July, 1898; in which he said:

“ Families are very closely united, but as a people they (the Filipinos) have no idea of union. The rivalry for prestige at the present day between one village and another on the coast, is sufficient to prove their tendency to disintegrate. The native likes to localize, to bring everything he requires, or aspires to, within his own little circle. If his ambition were to be a leader of men, he would be content to be a king in his own town. . . Native ideas are not expansive or far-reaching. I entertain a firm conviction that any unprotected (native) United Republic would last only until the novelty of the situation had worn off; then, I think, every considerable island would in turn declare its independence. Finally, there would be complete chaos.” (JOHN FOREMAN, July, 1898.)

This conclusion should have great weight as coming from a man of such authority that he was called as an expert before our Peace Commissioners at Paris in October, 1898, to whom he said: “The natives are decidedly incapable of forming a stable, satisfactory, and peacefully-working government.” He declared his belief that a free native government could not be administered for the real interests of the Common-

wealth, taking into account the rights of large minorities; and that it would assume a still more corrupt form of Spanish maladministration, and result in a long period of anarchy.

Thus it seems to be the concurrent testimony of our Admiral Dewey and our Philippine Commissioners and of specially qualified observers, that the Filipinos lack the capacity of national government; that their capacity is limited to the management of their village communities. Hence here,—at the village community,—we must look for our starting-point.

We have already discussed the existence of Village Communities throughout Asia, and may now proceed to the general principle which gives them vitality.

#### § 21. “Village Solidarity,” the Basic Principle of Government in India.

That principle is the “Solidarity of the Village,”—that the Village is an indivisible unit based upon communistic ideals; that the Village conducts all negotiations with the Central Government. The Village is a democracy governed by its own chosen officers; the Village, not the individual inhabitant, is the party taxed by the Government. The Village officers distribute, collect, and pay the taxes assessed on the village, and they discipline the inhabitant for his misconduct.

By “Villages” should be understood territorial districts or Townships comprising the habitable country, so that the whole country may be said to be

divided into territorial village governments of a completely democratic type. The part of the village territory not used for house-lots, is undivided common property, used as common planting fields, commons of pasture, of meadow and of woodland, in charge of village officers.

Thus we have the source of self-government in the Village Communities of India, in the "Mura" (village) of Japan, in the "Mir" (village) of Russia, and of the Castilian "Pueblo," and the Anglo-Saxon Town, — all of which were essentially self-governing democracies.

The fact that the Russian "Mir" is the latest town-system imported from Asia, and its most complete exponent of the communistic ideal of the Asiatic mind, seems sufficient to account for the peaceful and rapid extension of the Russian colonies from the Ural Mountains to the Pacific.

Indeed, the completeness of village political life under this system of democratic microcosms, and its independence of the Supreme Government, seem to account for the apparent paradox of democratic local autonomy under absolute national despotism. It may be further asserted that, however tumultuous or chaotic the fate of the dynastic government, the village life continues almost unruffled from generation to generation.

"Village Solidarity," therefore, is the ruling principle of Asiatic government; and our success in

framing a form of government for the Philippines will largely depend upon the careful recognition of this principle.

Starting, then, with the village as the tactical political unit, we should advance by grouping villages into counties — but always maintaining the village autonomy — for certain special purposes, such as superior courts and inter-village public works like county roads, water supply, irrigation, and higher education. The county boards, in charge of these extra-village interests, should consist of representatives of the villages elected by their townsmen.

Thence, as their capacity develops, an advance can be made to provincial or insular legislative governments, until at last the Philippines may be trusted with full self-government, in Colonial affairs, under a United States Governor-General with a veto power.

This is the general policy which has proved so successful in the British Colonies. Among the tropical Colonies of Great Britain, the mass of the people are of inferior colored races whose autonomy is still limited to local affairs. Yet, in India (according to Sir Charles Dilke's "Problems of Greater Britain"), the problem of local self-government has been solved in a most satisfactory manner; so that, by the end of this century, it may be predicted that, in the cities, village communities and rural districts throughout

India, the government will be “of the people, by the people, and for the people.”

The same great work is going on throughout the vast expanse of European and Asiatic Russia, taking the “Mir” as the tactical political unit. The beneficent character of this work is a fitting complement to the abolition of serfdom in Russia.

## § 22. The Japanese “Mura System,” a Factor of Self-government.

Perhaps the most instructive lesson for the case now under consideration, is the “Mura” or village system of Japan; and from it we may deduce principles for application in some parts of the Philippines.

A study of the “Mura System” impresses us with the principle, already developed, of an ideal democratic village government under the supervision of a strong central government of an exactly opposite character. This same observation applies equally to the Russian “Mir,” and the village communities of India and of Egypt under the British rule. Hence we may find that, by adapting this principle to the condition of the Philippines, we may establish a consistent government of the people, by the people, and for the people *in their local affairs*,—apparently all they are now capable of using wisely,—and yet preserve our firm but kindly control of their training in the art of self-government; and, at the same time,

assure their present prosperity and steady progress to an intelligent and solid national development.

The most thorough information in regard to the Japanese "Mura System" has been published (1890) in the "Transactions of the Asiatic Society of Japan" (Vol. xix., p. 37-272),—the posthumous papers of Dr. D. B. Simmons (graduate of the New York College of Physicians and Surgeons), who spent twenty-five years in Japan, dying there in 1889. His discovery and exposition of the village communities of Japan and their influence on the political development of the Japanese,—whereby Japan has, within a single generation, emerged from obscurity to a recognized position as a World Power in the family of civilized nations,—places Doctor Simmons as the compeer of Sir Henry Maine in this unique sphere of investigation. To this comprehensive publication and to Mr. Arthur May Knapp's more recent (1897) work on "Feudal and Modern Japan," reference is made for more complete information. But for our present purpose the following summary will suffice.

The village communities of Japan were as highly organized and as independent and democratic in the conduct of their municipal affairs as those of New England. Instead of the rural population living in ignorance of the laws and of their individual rights, "there was probably no country in the world," says Doctor Simmons, "where the mass of the people, down to the smallest farmer in possession of a few

square yards of land, was more familiar with their rights and duties than in Japan." The government of the people by themselves, under the "Mura System," is the true source of order and instinctive political capacity, upon which the modern government of Japan is built.

Our New England Town System, which represents the result of more than a thousand years of experience in local self-government, is recognized as having successfully solved the problem of popular local government. Yet to Japan, under perhaps the most conservative government of the unchanging Far East, "belongs the credit of having solved the same problem in the same way."

In the management of their local affairs, the Japanese "Mura" (village community) possessed almost complete autonomy. Local taxation was entirely under their control; the estimates of local expenses were formed by the Mayor ("nanushi") and Heads of the five-family groups ("Kumi") which constituted the village. The farmers (taxpayers) were then assembled in Town Meeting and each item of the budget thus formed was discussed; the approval of the Town Meeting was required to pass the budget and authorize taxation to cover the cost. The budget thus approved next went to the "Daikwan" (representative of the general government), who was required to examine and advise, but had no power to veto or

increase the appropriation ; his functions were advisory only, for the protection of the taxpayers ; but, if they had doubts about the proper use of the money voted, they could demand that an official investigation be made by him.

The “Kumi,” or company, was a five-family group or neighborhood, irrespective of the wealth or rank of the neighboring families. It was as old as the “Mura” itself and constituted the basis of the public peace, precisely as the Anglo-Saxon “frank-pledge” (Frith) bound the Tything, or ten-family group, to maintain each other’s good conduct. Thus mutual responsibility — responsibility for your neighbor in the good and bad events of life — created a bond which assured combined action, “that cohesion” which is necessary for the rule of the majority, which makes a minority orderly and safe. Thus every man felt himself not only a citizen, but as responsible for the conduct of his neighbors and as interested in their welfare.

Hence the “Kumi” became the centre of social as well as political life; every neighborhood (Kumi) practically became its own Insurance Company and Charitable Association ; in case of fire, the whole neighborhood joined in rebuilding the house ; in case of sickness or death the extra care and expense were shared, when necessary, by the five-family group (Kumi) to which the sufferer belonged. The heads of family in the “Kumi” settled disputes

among its members, wherever possible ; if impossible, the heads of the several "Kumi" constituting the village intervened, when called upon, and settled the controversy by friendly arbitration.

### § 23. Obedience to the Will of the Majority Alone Makes the Minority Orderly and Safe ; Without It Self-government Impossible.

These details, petty in themselves, indicate the source of that respect and obedience to the will of the majority, without which self-government is sure to prove a failure. Unless the minority accepts the legally expressed will of the majority as conclusive, minorities are neither orderly nor safe ; this lack of "cohesion" is fatal, tending to political anarchy and chaos.<sup>1</sup>

Hence, to assure a successful national government in the Philippines, we must see to it that the political units, which are to constitute it, are sufficiently trained in their local governments (*e.g.* town, county, or province) to form and respect the majority's will as conclusive. Therefore, to build a national form of government in the Philippines, before this condition precedent is assured in the political units of the archi-

<sup>1</sup> A state may be defined as a Political Community, the members of which are bound together by the tie of a common subjection to some central authority, whose commands the bulk of them habitually obey. If there is no such obedience, there is anarchy ; and in proportion as obedience is lacking, the community runs the risk of losing its statehood. (Lawrence's International Law, § 43.)

pelago, would be as unwise as to build a National Capitol without first assuring the stability of its foundation.

This explains why the United States have proved a marvellous success in self-government; why our Town Meeting and Public School are the vitalizing factors of national self-government, which seems capable of indefinite expansion so long as these two vitalizing factors are kept in vigorous activity.

Conversely, we cannot incorporate in our Union, as Territories (much less as States), on terms of political equality and with promise of statehood, any territory with a dense native population which has not attained this condition precedent of self-government, without hazarding the welfare of the Union.

#### **§ 24. A New Legal Status—“Colonial Dependencies”—Should Be Created.**

Hence it seems that, with colonial expansion, we must provide a new legal status, “Colonial Dependencies,” distinct from our “Territories.” The new colonies are all of a radically lower stage of political capacity; while our Territories have generally been of the same race as our States, and settled from them, and therefore have been considered to be in a condition of probation for statehood.

But our new colonies, in the East Indies especially and to a less degree in the West Indies, are not of the same race and political capacity as our own popu-

lation; therefore they should not be admitted to the status of Territories with the right of ultimate statehood at present, however desirous they may be of admission to an equality with our Territories.

Therefore it seems inevitable that our body politic must be enlarged by the creation of a new legal status — that of "Colonial Dependencies," for the reason that they cannot be governed by the same uniform laws as our Territories, on account of their radical difference of condition and political capacity, not only when compared with our Territories, but when compared with each other.

A change from Military to Civil Government in all our Colonial Dependencies — from a government of men to a government of Law — seems desirable as soon as it can be done with safety; but this by no means would exclude the military support of the Civil Government. This involves the creation of colonial governments, varying in type and powers to conform to the needs and capacity of the different colonies. The establishment of a Colonial Bureau or Department seems inevitable as the best means of systematic governmental oversight of the colonies and of their advancement to be self-governing and self-supporting as soon as practicable.

In this Memorandum, it has been intended to suggest the underlying principles of Colonial Government suited to the respective needs and political capac-

ity of Cuba and Porto Rico as one group, and of the Philippines as a distinct group. The experience of other countries has been adverted to as suggestions, rather than formulations of a particular system of Colonial Government.

#### § 25. Tendency of the Age to National Consolidation and Imperial Expansion and to International Combination.

The new stage of National Development, upon which we are now entering, is not peculiar to our country ; it is a world-growth of the most far-reaching character for good or for evil, as it shall be handled.

The tendency of the past half century has been toward National Consolidation and Imperial Expansion, and International Combination.

The Unification of Germany and of Italy,—the Federation of Canada and of Australia,—the Consolidation of the Presidencies of British India as an Empire,—the Expansion of Russia eastward and of the United States westward from ocean to ocean,—the tendency to combine British South Africa as a Dominion,—the International Combination for the Partition of Africa and attempted Partition of China ; — all these historic events indicate the tendency of the age to the consolidation of political power throughout the world in the hands of a few great “World Powers.”<sup>1</sup>

<sup>1</sup> Prof. T. J. Lawrence, of the University of Cambridge, Eng-

The time-honoured doctrine of the Equality of Nations, laid down by Grotius, "the Father of International Law," is disappearing as a recognized principle of International Law before the growing modern doctrine of the Primacy of the Great Powers, as the guardians of the World's Peace.

The latest phase of this new doctrine is the tendency to International Arbitration, which, in fact, though not avowed, is a combination of the Great Powers of Europe and the United States for the settlement of the international controversies of the whole world, under their guidance, without war,—*exceptis exceptandis*. Hence also the "Concert of Europe," the "Triple Alliance," and the doctrine of "Spheres

land, in his recent treatise (1898) on International Law (§ 134) thus describes the modern doctrine of the Primacy of the Great Powers :

"The doctrine of the Equality of Nations is becoming obsolete and must be superseded by the doctrine that a Primacy, with regard to some important matters, is vested in the foremost Powers of the civilized world. . . . The agreement of the Six Great Powers is called the "Concert of Europe;" that what is done by their concerted action, is done in behalf of the whole of Europe and is binding upon the other states, even though they have not been consulted.

"On the American Continent a similar Primacy, though hardly of so pronounced a character, seems to be vested in the United States."

Mr. H. H. Powers, in the *Journal of the American Academy of Political Science* for September, 1896 (p.15), takes similar grounds :

"It is probable that a generation more will see the entire world under the jurisdiction, or within the 'Sphere of Influence,' of half a dozen Powers."

of Influence" may be considered as International Combinations to avert war.

§ 26. **Toleration — the recognition that the race-instincts of the natives, as evinced by their laws and religious systems, cannot be changed by legislation any more than the color of their skin — necessary in governing races different from our own.**

Every considerable race, above savagery, represents its peculiar type of civilization; and it may be assumed that no particular form of government or of religion, accepted by great races, has not some peculiar fitness to the needs and instincts of such peoples. Certainly neither Confucius, nor Buddha, nor Mohammed could have extended, and maintained for centuries, their religious systems over hundreds of millions of our fellow men, unless their religious teachings had met the instinctive response of their followers. The same may be said of the three great branches of Christendom: — the Greek Catholic, the Roman Catholic, and the Protestant Churches.

Hence the importance of "Toleration" in both civil and religious matters, as the cardinal principle of our colonial policy; in other words, our recognition that the laws, customs, and religions of the natives are the results of their race-instincts and ages of experience and are generally interwoven in their character; for which reason they should not be hastily set aside, but rather reckoned as conducive to public

order and therefore to be utilized during the transition period just commencing under our control.

Let us, then, see to it that whatever we find in them of living force and good tendency be recognized and utilized in forwarding the regeneration of our Colonial wards, whether they live in the East Indies or the West Indies. As their general intelligence and political capacity increase, their race-instincts will improve and enable them to choose, more wisely than political theorists and zealous missionaries, what they can practically assimilate. We have gone to those colonies to regenerate and develop their political capacity to govern themselves and then be entrusted with the control of their own destiny,—not on a missionary voyage seeking to guide those peoples through the labyrinths of dogmatic theology.

As already emphasized, we must form governments and laws to conform to *their* present condition and race-instincts, rather than to ours. We cannot, by mere legislation, change those instincts any more than we can change the color of their skin. Nor must we allow the conceit or over-zeal of civil or religious reform, however nobly inspired, to usurp the functions of a comprehensive statesmanship in directing the practical regeneration and advancement of these millions, whose welfare we are bound to promote according to our best judgment.



## APPENDIX.

In this memorandum the close historical connection between the “Castilian Pueblo System” of Spanish America and the “Old Anglo-Saxon Town System” of New England is outlined as the basis of that virile energy and individual initiative and capacity for self-government, which distinctively marked the Spanish and the English settlers of America as successful colonizers. In order not to break the continuity of the argument, only the salient features of these kindred systems of local self-government were outlined: but for the student of municipal government, a more detailed account is very suggestive.

In 1872 the Charles Sumner of the Chilean Senate, the late Don Manuel J. Yrarrázaval, whom I had known intimately since we met as students in Europe, wrote me for detailed information in regard to our New England Town System as well as other points of our political organization. In the course of this research, I was able to trace back our New England Town System to the time of Alfred the Great, whose niece Elthrude, wife of Baldwin, Count of Flanders, gave the manor of East Greenwich in the county of Kent to the Benedictine Abbey of St. Peter's at

Ghent, for the “health of the souls” of herself, her husband, and two sons. In that charter the rights and liberties of that manor were described at length, and extended to those who inhabited that manor. That charter was repeatedly confirmed by subsequent sovereigns down to Henry V., when foreign monastery lands were surrendered to the Crown, and by the King the trusts upon which they were held were transferred to English monasteries. Thus the manor of East Greenwich was regranted to the Cistercian Abbey at Shene upon the same terms and for the same uses, and so continued until early in the reign of Henry VIII., who wished to build a palace on the summit of the hill, which partly belonged to the Royal Manor of Greenwich, and partly to the Cistercian Manor of East Greenwich. To obtain the fee of the latter he offered another manor in exchange, and guaranteed to the inhabitants of the Manor of East Greenwich the perpetual enjoyment of their old chartered rights. The palace there built became the favorite residence of Henry VIII., and there was born his famous daughter, Queen Elizabeth.

Thus it came to pass that, on the confiscation of monastery lands throughout England, the king had debarred himself from changing the rights and liberties of the people of “Our Royal Manor of East Greenwich in the County of Kent;” in which had been preserved the rights of the Anglo-Saxon period of Alfred the Great.

Sir Edward Coke is said to have suggested this tenure of lands in America; at least we know that our Massachusetts Colonial Charter describes them as holden "as of our Royal Manor of East Greenwich" etc. So that we may safely say that our New England Town System is directly descended from the Anglo-Saxon Town System of Alfred the Great's time.

The Castilian Pueblo System was based upon the laws and liberties of Castile compiled in the *Fuero Juzgo* (A.D. 693), the *Siete Partidas* (A.D. 1348), and the Castilian code of Montalvo (A.D. 1485), known as the *Ordenanzias Reales*, supplemented by additional Codes in the time of Queen Isabella. It was the great wish of that "good queen" to have the Municipal Law of Castile codified for the use of her subjects in Spanish America, and the work was in progress at the time of her death, subsequently known as the "Laws of the Indies." Thus we trace back to the beginning of the Eighth Century, substantially to the time of King Alfred, the original rights of the Castilian Pueblo.

In the "Laws of the Indies" (Book II., Title I., Law 2) we read the following legal status of Spanish America:

"We decree and command that, in all cases not decided nor provided by the laws contained in this compilation, the laws of our kingdom of Castile shall be observed according to the Law of Toro."

The Cortes of Castile held at Toro in 1505 was largely devoted to the confirmation of Town rights.

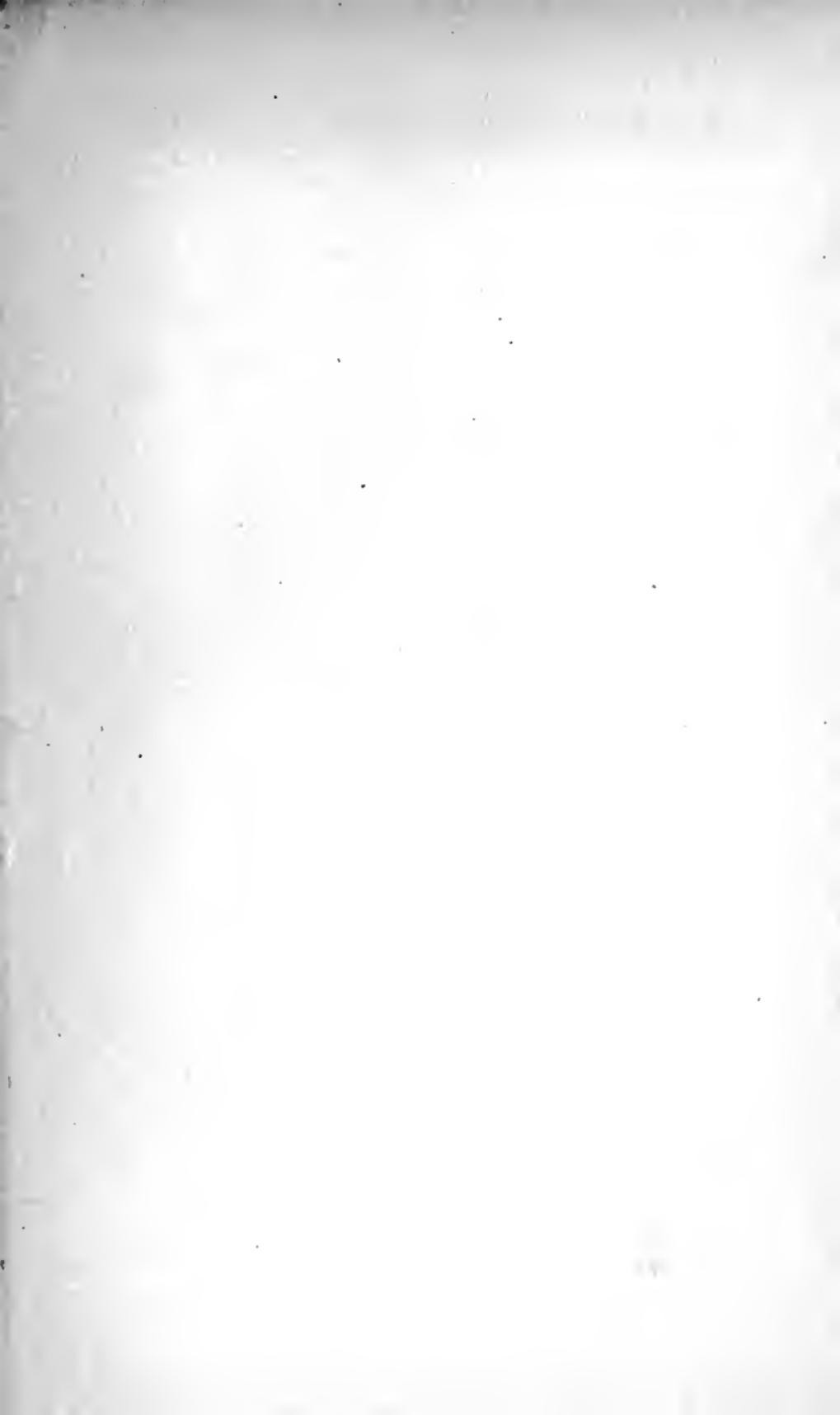
In *Welch v. Sullivan*, 8 California 165, and particularly in *Hart v. Burnett*, 15 California 530, will be found very comprehensive reviews, by the Supreme Court of California, of the Pueblo System as it existed in California at the time of its annexation to the United States.

I may add that the “Hacienda System” of Chile, which I carefully studied during a visit in Chile, 1879–80, is almost the reproduction of the English Manor System in the time of the Tudors,—with its common planting-fields, commons of pasture, of meadow, of woodland; with the rent paid in labor, so many days in the week; with its support of public worship and care of the sick and orphan. So that, as stated in this memorandum, “the Old Castilian Pueblo System, traces of which still survive, would constitute an excellent starting-point” for the regeneration of Spanish-American peoples.

HORACE N. FISHER.







**University of California  
SOUTHERN REGIONAL LIBRARY FACILITY  
405 Hilgard Avenue, Los Angeles, CA 90024-1388  
Return this material to the library  
from which it was borrowed.**

QL OCT 17 1994

01 OCT 02 2001

94110

UC SOUTHERN REGIONAL LIBRARY FACILITY



A 000 984 300 4

Univers  
Soc  
I